



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,596	10/23/2001	Joseph T. Apuzzo	POU900183US1	3794

46369 7590 04/27/2005

HESLIN ROTHENBERG FARLEY & MESITI P.C.  
5 COLUMBIA CIRCLE  
ALBANY, NY 12203

EXAMINER
----------

DAS, CHAMELI

ART UNIT	PAPER NUMBER
----------	--------------

2192

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,596

Applicant(s)

APUZZO ET AL.

Examiner

CHAMELI C. DAS

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.  
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,12,14-20,23-25,27-33 and 36-39 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,3-9,12,14-20,23-25,27-33 and 36-39 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

1. This action is in response to the amendment filed on 4/4/05.
2. Claims 1, 3, 5, 12, 14, 16, 23, 25, 27 and 29 have been amended.
3. Claims 2, 10, 11, 13, 21, 22, 26, 34-35 have been canceled.
4. Claims 36-39 have been added.
5. Claims 1, 3-9, 12, 14-20, 23-25, 27-33, 36-39 are rejected.

### ***Double Patenting***

6. Claims 1, 3-9, 12, 14-20, 23-25, 27-33, 36-39 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-58 of copending Application No. 09/919,753 . Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications claim testing multiple software layers of the software component, parsing the abstraction matrix to automatically generate and factor out doable test cases and mapped expected results therefor, and separating the test cases based on the software layers of the software component.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in face been patented.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 2192

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made or record and not relied upon is considered pertinent to applicant's disclosure.

TITLE: Method and system for information handling system automated and distributed test, US 6882951 B2

TITLE: Software test system and method, US 6779134 B1

TITLE: System for establishing plan to test components of web based framework by displaying pictorial representation and conveying indicia coded components of existing network framework, US 6473794 B1

TITLE: Automated software testing system, US 5335342 A

TITLE: Test executive system and method including step types for improved configurability, US 6401220 B1

Art Unit: 2192

TITLE: Building techniques in a development architecture framework, US 6405364 B1.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chameli Das whose telephone number is 571-272-2696.

The examiner can normally be reached on Monday-Friday from 7:00 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Tuan Dam can be reached at 571-272-2695. The fax number for this group is (703) 872-9306.

An inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 571-272-2100.

*Chameli C. Das*  
**CHAMELI C. DAS**  
**PRIMARY EXAMINER**  
*4/22/05*